REMARKS/ARGUMENTS

The foregoing amendment and the remarks which follow are responsive to the Office Action dated April 22, 2005. In that Office Action, claims 1-11 and 38 were rejected under 35 U.S.C. §112 for indefiniteness; claims 1-7, 9, 11-37 and 39-44 were rejected on grounds of non-statutory double patenting; claims 1,3,9-12, 15-17, 19, 26, 30-32 and 35-36 were rejected under 35 U.S.C. §102(b) as being anticipated by WO 94/01177 (Hascoet et al.); claims 39-40 and 42 were rejected under 35 U.S.C. §102(e) as being anticipated by United States Patent No. 6,383,144 (Mooney et al.) and claims 2, 4-8, 13-14, 18, 20-23, 27-29, 33-34, 38, 41and 43-48 were rejected under 35 U.S.C. §103 as being obvious over Hascoet et al. and/or Mooney et al., alone or in combination with a virety of secondary references.

By the present amendment, original claims 1-48 have been cancelled and new claims 49-78 have been presented for prosecution. New independent claim 49 recites a system that comprises:

> an elongate catheter that is insertable into the vasculature of the patent;
>
> a heat exchanger at a first location on the catheter, said heat exchanger being sized and configured such that it may be positioned within the subject's vasculature such that blood will flow past the heat exchanger, a heat exchange fluid being passable through the heat exchanger without causing the heat exchange fluid to mix with the subject's blood, such that heat will be exchanged between the heat exchange fluid flowing through the heat exchanger and blood flowing past the heat exchanger;
>
> a temperature sensor at a second location on the catheter, said temperature sensor being initially disposable in a non-deployed position and subsequently disposable in a deployed position, said temperature sensor being operative, when in its deployed position, to sense the temperature of blood flowing through the subject's vasculature without substantial interference from heat exchange fluid passing through the catheter; and,
>
> a controller which receives a temperature signal from the temperature sensor and, in response to such received signal, controls the temperature and/or rate of heat exchange fluid passing through the heat exchanger to cause heating or cooling of the subject's blood until the temperature sensed

by the temperature sensor is substantially the same as a predetermined target temperature.

New independent claim 73 recites a method for controlling the temperature of all or a portion of a subject's body using the system recited in claim 49. These new independent claims 49 and 73, as well as the accompanying dependent claims 50-72 and 74-78 are fully in compliance with the requirements of 35 U.S.C. § 112 and clearly distinguish over Hascoet et al., Mooney et al. and all other prior art of record.

Notably, neither Hascoet et al. nor Mooney et al. describe or suggest *any* system or method wherein any intravascular heat exchange catheter is used to control the temperature of all or a portion of the body of a human or animal subject.

For example, Hascoet et al. describes a urethral probe that is inserted into the urethra and used to heat the prostate gland as a treatment for prostate disorders. The urethral probe of Hascoet et al. does not have any heat exchanges that could be used to exchange heat with blood flowing through the patient's vasculature in combination with a temperature sensor that is moveable from a non-deployed position to a deployed position.

Mooney et al. describes introducers and other device that are insertable into a patient's vasculature and which have temperature sensors that are moveable from non-deployed positions to deployed positions. The devices of Mooney et al. have lumens that may infuse fluids into the patient's blood, but the devices of Money et al. are devoid of any heat exchanger through which a heat exchange fluid may be passed without causing heat exchange fluid to mix with the patient's blood. As required by Applicant's new claims.

Other references of record (including but not limited to the cited United States Patent No. 6,019,783 (Philips et al.)) describe heat exchange catheters that have heat exchangers through which heat exchange fluid is circulated, but the heat exchange catheters described in those other references do not include temperature sensors that are located on the heat exchange catheter and are moveable from non-deployed positions to deployed positions.

Thus, new claims 49-78 are believed to be in condition for allowance over all prior art of record. Reconsideration and issuance of a notice of allowance is earnestly solicited.

Respectfully submitted,
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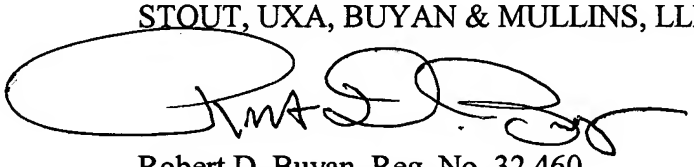

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